778 /287 cont./
776 Aziza will still go on increasing. The chief of the zaouia of
794 Bu^{c}anfir in Ud Bessebâ^{c} used to come on a pilgrimage to Z'init' so that the flood waters would reach his lands. Sidi Mh'and, of the great médersa /Moslem advanced school/ of the Mez'ud'a, did not disdain to make his devotions there. At the Mîlâd, in
[685] 1949, a mule theft was committed during the ceremony in a sacrilegious plot to get rid of an enemy. Several days later, the crime caused a terrified repentance on the part of the guilty man, who spontaneously had the beast brought back. At the time of the theft, moreover, the people of Z'init' had asserted that Lalla Aziza herself would not fail to use her "lights," tifawin. The
[554] event confirmed their pious trust. That so many powers coincide
[771] with the mediocrity and intrigue of the ministers, among whom the moqaddem was only a politician at the service of the Mtugga ambitions during the last generation, is a characteristic that merits attention and upon which it is proper to reflect when one tries to evaluate the part of the sacred and of its men in the Chleuh /Shluh/ society. And the problem will stop being knotted when one knows that, rejecting anything exclusive, these native ministers do not rest content with their saint, and make offerings themselves, upon the harvest of the maize, to two maraboutic families, the a. Sograti of the Haut Dwiran and the a. Bennâçer of Tawlukult!

/288/ However that may be, Lalla Aziza exerts over the whole Seksawa system, and accessorily in the Haut Dwiran (a. Wageryan) as well as on the side of the Gedmiwa (through the a. Gasa), a veritable fiscal attraction, expressed by the regular collection of cens: agricultural first fruits and sacrificial meats. As dry as an enumeration of it might be, it will nevertheless contribute to interesting geographical localizations. And, moreover, the very dryness of this roll, for it is one, since it fixes stipulated and almost transactional obligations (chchard'), will give a verity of atmosphere.

175 /373 cont./
685 "Note," taqyîd, of the fine imposed by the moqaddem of the
683 Idma on an individual who stole some almonds, and whose
[634] brothers cursed the one robbed, yal^{c}anû bi-kathrat il-qabîh': 10 m. for the thief and for each insulter. Without date.

175 Therefore, to be content with what can be restored by the
671 existing documentary sources, and even taking into account transpositions inherent in the writing, one is struck by the publicist and regulatory character of this penal law. To what extent this character has prevailed over familial autonomy will be shown by the following texts.

175 /374/ /The following three paragraphs are in small type in
685 the original source./ In 1267 Heg.: 1851 the Idaw Geryun
[619] decreed that an insolvent thief must be executed by his agnates.
[634] The latter must put him to death. If they do not resolve to do this, they must release him from his fine at their own expense. The jemâa frees the agents of this execution from any payment of dîâ!

In 1276 Heg.: 1860 the a. Tasa condemned one among them to death for robbery. He was therefore executed. "But not at all by the hand of one alone, but by that of all, and without dîâ, fine or exile, being incumbent on anyone."

There still exist in Haut Seksawa old men who remember
[613] deaths of this sort. The executioner is sometimes the agnatic group,
[634] sometimes the taqbilt, or rather a subdivision of the latter, the
[619] "third," thelth.

671 In these cases at hand, the primacy of the group and of the
681 justice that it renders is curiously reconciled with an archaic concern for immunity. Penalty of public order, certainly, but one that takes precautions on the side of private vengeance and the pernicious influences of spilled blood. The ikhs, or the "close ones," here become ministers of a repression that is indeed that
[613] of the state. And not only must they thus kill one of theirs, whom their "duty" would have been to protect or avenge, but it is the state that finally absolves them of the responsibility for this murder.

/381 cont./
671 212 many dissertations to it (1).

1. For example, as-Suktânî, Ajwiba, ms. Ud ᶜAbd al-Mawlâ, pp. 139 b and 140 b (Deren).

It was undoubtedly under this aspect that the problem of the native law, outside the fiqh, was posed for them. One can thus suppose at the beginning of the sixteenth century, at the probable epoch of the generalization of the notariate in our mountains, a parallel generalization of these codifications. The very name of these elaborations — even if they replaced something older and of which we shall never have any idea, save for the chance of a lucky find — is strictly Arabic. It is the very word, designating this "equity," that our jurists sometimes oppose to the norms properly speaking among the sources of the judgment. Inçaf is a religious word, with moral sonority. If a semantic extension makes it mean "fine," then "penal tariffication," the fiction of an arbitration of the viri prudentes authorizes the transition from one notion to the other. A continuity without rupture is thus established from the orthodox thought and from its paradoxical particulars to the illicitness of purely laic legislations and certain of which, horrors! deal with personal status.
671 212 799

This is what the writers indeed felt, this is what they have always held. Even if one makes allowances for the professional scruples of the scribes, pious men with devout affectation, with sanctimonious words, this characteristic is found even in the content of these charters. Effort at attachment to orthodoxy! A text of 1142 Heg.: 1730 assimilates the compensatory tariff for robbery, practiced in Seksawa, with the canonical penalty of amputation of the hand: in fact, says our doctor, 33 onces were the value of a hand during the period of the Companions! Every time that it can be done, erudite qutoations come to legitimate the foreign communal law. A similar act of 1147 Heg.: 1735, emanating from the "cadi" sidi Moh'ammed, son of the saint of Assttif, strangely joins a quotation from Khalîl to some
175 685 671 799
175 683 671 799

/250 cont./

443 Bouzia in the Haha tribe, the "Had" of the Ait Mzal in the Anti-Atlas, or still more often at the foot of the mountains, such as, for example, the markets of Amismiz and of Tisgin of the
443 Gedmiwa. Sometimes surrounded by a contiguous wall, these
366 markets possess several hundred shops formed out of alveoli of earth and dry stone, covered with branches, divided into quarters or "rahba." One finds in their enclosure cafés, which are often unpleasant places, sometimes permanent storehouses for storing commodities, always a mosque in which people go to
443 swear an oath if some dispute arises. These markets, frequented by all the tribes of the vicinity, sometimes at two days' distance, often gather together several thousand Berbères /Berbers/. It then becomes necessary to watch particularly to protect the transactions by special regulations.

443 It is a great disgrace for the inhabitants of a country not to
625 be able to repress energetically the thefts that might be committed in their souq /sook/ or on the roads leading to it; so all
•685 the little codes of customary law of the tribes of the South of Morocco are devoted to long paragraphs enumerating the considerable fines that punish the thieves and route cutters who would try to practice their trade at the market or its outskirts. Incessant surveillance is exercised by the tribal authorities, so that the guilty may be immediately apprehended and condemned. There is reason to fear, as a matter of fact, that there may break out at the market an altercation whose appearance could be the signal for a panic. Sometimes similar incidents are created on purpose by the thieves in order to "break up" the souq and to enable them, by means of the disorder, to pillage valuable merchandise.

For all these reasons, it is rare that an assembly of notables suffices to make the "horma," the good name of the market, respected. /251/ Certain tribes nevertheless succeed in protecting their souqs, and then reap large profits from them (1).

1. Cf. Sitte und Recht /Custom and Law/, pp. 128-134: the development of the market of Tinghir (Todgha) permits leasing the rights

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/251 cont./

/footnote 1 continued/ paid for by buyers and sellers and maintaining the "tribal treasury." The case is exceptional in tribes living under a democratic constitution.

*[634] In this case the inflas sit permanently in a large shop and judge
443 all the offenses that come to their knowledge. But most often,
634 even when the fractions live by observing republican constitu-
554 tions, it is a rich and powerful man who alone is capable of im-
692 posing respect for the decisions taken with regard to the guilty
685 and of acting without delay against the highway thieves. The existence of the market thus favors the development of personal power, and it is by "commanding over the souq" that a leader best shows his prestige and worth.

443 It also happens that the authority of the assemblies of inflas
*634 succeeds in being exerted more easily on the souqs by calling on
792 a maraboutic authority. The markets of Lalla ᶜAziza among the
784 Seksawa, of the "Jemaᶜa" of the Aït Daoud near the tomb of Sidi Saᶜid Ou ᶜAbd en Naᶜim among the Haha, are protected not only by the tribes, but also by the local saints, whose "tagat," curse, would strike down profaners pitilessly. In all the South, as more-
[798] over in the rest of Morocco, it is also in the vicinity of the most venerated sanctuaries, such as Lalla ᶜAziza of the Seksawa, Sidi Mehend Ouchchen of the Haha, Sidi Bihi of the Chtouka, Sidi Yahya ben ᶜAbd en Naᶜim of the Aït Tamment, Sidi Ahmed Ou Mousa of the Tazerwalt, and many others besides that the great fairs of spring or autumn, known by the name of "mouggar" (2),

2. From the verb "miggir," to meet (Destaing, Vocabulaire français berbère /French-Berber Vocabulary/, dialect of the Ida ou Semlal, Paris, 1920, p. 246). Fair: "anmuggar" (ibid., p. 131).

are held. These annual festivals attract the inhabitants of all the

/306 cont./
343 712 [625] village, happened to be at the center of a cirque forming a resonator, the guards would hear any suspicious noises; in this case they would fire a few gunshots and help would arrive from the village; the prowlers would then run away. No one remembers that a theft has been committed in this agadir.

Agadir of Ankoutouf (Figs. 6, 7 and Fig. 14). -- It has 90 chambers, 60 of which are used, and three stories. It is especially well constructed and maintained. It is the agadir of the [621] village of Ankoutouf (48 hearths). Each hearth owns one to [423] three chambers; property deeds attest to these rights. Four [628] rooms are mortgaged, for a price that goes from 8 to 15 douros, [426] to some natives of Tizza, a village that does not have an agadir.

Each owner has the key to his rooms. The guard, who lives 343 712 inside the agadir with his family, has the key to the outer gate. He is appointed for a year as a rule and is changed in October; 625 in general /307/ /Figs. 1 and 2 appear here/ /308 is blank/ /309/ /Figs. 3 and 4 appear here/ /310 is blank/ /311/ he [465] stays longer if people are satisfied with his services. He receives a rba of barley per year and per occupied chamber. In case of 343 712 theft, the thief, if he is discovered, repays the amount of the theft and pays 50 douros as a fine. The responsibility of the 685 625 guard is involved only if the theft was committed after breaking open the outer gate -- and in this case it is he who repays the amount of the theft and pays 50 douros as a fine; but if the thief found his way in through a breach made in the wall, the guard is not troubled. The fine is divided among the owners of the rooms. Since no check is made of the quantities stored in the rooms, the victim must, in case of theft, swear along with 24 coswearers in order to certify what has been taken from him.

343 712 [621] Agadir of Tanout (Fig. 5 and Fig. 15). -- Belongs to the village of Tanout (57 hearths). It contains 70 chambers on two or three stories. The two borjs /lookout towers/ are empty.

Same interior arrangements and operation as at Ankoutouf.

/311 cont./

343 712 621 423 625 [562] Agadir of Tizzirt (Fig. 19). -- Belongs to the village of Tizzirt (50 hearths). Certain inhabitants own up to five chambers there.

Same arrangements and operation as at Ankoutouf.

The guard is usually a man. As an exception, this job was entrusted to a widow in 1928.

Agadir of Annoums (Fig. 8 and Fig. 20). -- It belongs to the village of Annoums (65 hearths).

[465] [685] [184] Five stories, all 80 chambers occupied; the guard receives a kharrouba of barley per chamber and per year. In case of theft, the custom is the same as for the agadir of Ankoutouf.

Agadir of Tamjlojt (Fig. 21). -- It belongs to the village of Tamjlojt (45 hearths). Sixty rooms, four stories. The guard receives one tmen of barley and one kharrouba of maize per room [465] and per year. As an exception, this post was given to a woman [562] last year.

Agadir of Talmakant (Fig. 16). -- It belongs to the village of Talmakant (40 hearths) and comprises 52 large rooms on two stories. It can serve both as storehouse and as réduit for defense [312] in case of attack, because of its cistern and its interior arrangement.

[682] /312/ It is in ruins in part; it has not been used any more for 25 to 30 years because an assassination was committed there.

Agadir of Assaka (Fig. 17). -- Like the preceding one, it served both as storehouse and as fortress.

[669] It was destroyed in part following internal struggles in 1925, and it is planned to put it back into condition. It serves at pres- [727] ent to shelter the numerous exiles who returned to the tribe after the submission and found their houses demolished.

Agadir of Azar (Fig. 18). -- It belongs to the village of Azar (28 hearths).

It normally serves as storehouse and in troubled times as fortress. The rooms are mortgaged for 5 to 20 douros. The [465] guard, changed every year, collects a kharrouba of barley, one kharrouba of maize, and a pound of almonds.

/312 cont./

343 712 .685 In case of theft, if the thief is discovered, he must, irrespective of the punitive sanction that is imposed on him by the amghar /leader/ of the fraction, indemnify his victims. If the theft was committed through a hole made in the wall and if the thief is not discovered, the village in the midst of which the agadir is built is held responsible and must indemnify the victims [625] of the theft. If the theft was committed after breaking open the entrance gate, the guard is held responsible, must indemnify the victims of the theft. The latter must bring 24 coswearers in order to certify the quantities that they declare was stolen from them.

343 712 Agadir of Amassa (Figs. 10, 11, 22). -- It belongs to the people of Amassa (80 hearths), contains 80 chambers, 3 of [621] which are on the fifth story, all are utilized; most of the doors [423] are painted and worked. A room is mortgaged for 10 to 50 [426] douros and is sold for up to 100. The guard receives a kharrouba [432] of barley per year and per room, except for three rooms on the [625] fifth story, which pay nothing. In addition, the guard is fed, as [465] the fqih of the mosque is at the present time in Berber country. He is supplied with three meals a day, each owner taking his [685] day in turn. The three rooms on the fifth pay nothing, but in return they have no right to indemnity in case of theft.

[358] Each owner is obliged to make the repairs necessary to maintain his room in good condition. Thus the owner of one /313/ /Figs. 5 and 6 appear here/ /314 is blank/ /315/ /Figs. 7 and 8 appear here/ /316 is blank/ /317/ /Figs. 9 and 10 appear here/ /318 is blank/ /319/ /Figs. 11 and 12 appear here/ /320 is blank/ /321/ chamber may take action against the one of the one below, if it should happen to collapse, or against the one of the room above, if it lets water coming from the terrace [685] leak through. In case of theft, the custom is the same as for [184] the agadir of Ankoutouf.

[621] [423] Agadir of Tajelt Oufella (Fig. 12 and Fig. 23). -- It belongs to the village of Tajelt Oufella (33 hearths). It comprises 60 rooms and four stories.

/321 cont./

343 712 625 [465] The guard is a volunteer who remains as long as he wishes, if the users are satisfied with his services. Every year he is given a half-kharrouba of barley per room, utilized or not; furthermore, he is fed by the owners of the chambers. A turn is established as follows: if there are three rooms in height, each owner in turn guarantees 3 meals a day; if there are four rooms in height, the owners of the highest and lowest ones together guarantee a day; the following day it is the owners of the middle chambers. [358] [184] The same rules as at Amassa are followed for the respective responsibility of the users in case of collapse or the infiltration of water. The guard is responsible only for thefts committed [685] after a break through the outer gate, not for those that have been made through a breach in the wall. The thief, if he is discovered, repays the amount of the theft and gives a cow that is divided among the owners, taking into account the number of chambers; the same rule is applied against the guard, if he is responsible. The victims of the theft provide 24 coswearers.

343 712 621 423 358 [685] [184] Agadir of Meggount (Fig. 24). -- It belongs to the inhabitants of the village of Meggount (80 hearths). The rules for its operation are the same as at Tajelt Oufella in what concerns poor maintenance and theft.

In all these collective storehouses, if repairs concerning the agadir itself and not only one room become necessary, all the co-owners are jointly liable. They carry out the work in common and, according to the number of shops they occupy, bear the costs caused by this repair, for the purchase of wood, the salary of the workers, or any other expenditure.

Imi n Tanout, 15 March 1928.
Lieutenant Pierre Dupas.

/Page 322 is blank, but precedes an unpaginated folded insert bearing Figs. 13-24./

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

Shooting at a man but missing him.	Failure to attend weddings outside the commune,
Collection of blood money.	Speaking to women in market.

Tribal Council

Adultery caught in the act,	Wounding,
	Murder.

681 The nature of the crime also determines the fine imposed. All [685] *'urfs* on record are for the most part long lists of fines for infractions [623] of various rules. If the crime is theft, the fine also varies according [634] to the value of the object stolen. These fines are generally paid to [635] the *jemaa* having jurisdiction over the case. Thus, in Nesrat the [191] fine paid by the respondant of a division of the *ksar* to the *amghar n l'amt* accrues to the members of the superior council (Johns Hopkins University, 1956, p. 232; La Chapelle, 1929, pp. 32-33).

682 This system of jurisprudence, while functioning satisfactorily in most cases, often broke down when the crime was homicide, either because the initial act caused such immediate reprisal and developed into a war so quickly that the councillors found themselves fighting on one side or another before they could call a meeting, or because the tribal council lacked the power to enforce its decision. This 692 situation was forestalled somewhat among some of the Shluh tribes through the institution of annual "rounds of justice".

... Lorsque les cantons [districts] sont ainsi groupés de manière à constituer une véritable tribu, formée d'un certain nombre de petites unités autonomes, on procède souvent à des tournées de justice exécutées dans tout le territoire, au cours desquelles toutes les infractions commises pendant l'année sont examinées et punies. Toutes les forces de la tribu viennent alors prêter leur appui à chacun des cantons pour faciliter le règlement rapide des différends sans qu'il en résulte aucun danger pour la paix intérieure.

Cette coutume, naguère observée chez les Igezzoulen de l'Anti-Atlas occidental, est encore très vivante dans la confédération des Ida Ou Tanan, chez les Ait Ou'azzoun [545] et les Ifesfasen [544]. La tournée de justice est accomplie en suivant un cérémonial minutieusement observé. Chez les Aït Ou'azzoun, par exemple, tribu formée de quinze "afous" ou